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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 53rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 4 March 1993, at 10.00 a.m.

Chairman: Mr. ENNACEUR (Turkey)

Later: Mr. GARRETON (Chile)

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GE.93-11711 (E)

The meeting was called to order at 10.30 a.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEMS 7, 8 AND 17

Draft resolution E/CN.4/1993/L.19 (agenda item 7)

1. Mr. KUEHL (United States of America) said that the sponsors of draft resolutions E/CN.4/1993/L.19 and E/CN.4/1993/L.24, concerning respect for the right of everyone to own property alone as well as in association with others, had reached an agreement. As part of that agreement, the sponsors of the first resolution had agreed to make the following amendments to it.

2. A new preambular paragraph should be added, after the second preambular paragraph, reading: "Recognizing that there exist in the world many forms of property ownership". After that new paragraph, another preambular paragraph should be added, which would then become the fourth preambular paragraph, reading: "Recognizing also the necessity of concluding the analysis of the numerous forms of legal property ownership". In the last preambular, and first operative, paragraphs, the word "final" should be deleted. Paragraphs 2 to 4 should be deleted and replaced by the following:

"...

2. Expresses its appreciation to the Independent Expert for his report, his thoughtful analysis of the relevant issues, and his conclusions that property ownership is an essential basis of the economic system of any given society and that intellectual property must also be protected;

3. Decides to renew the mandate of the Independent Expert for one year so that he may complete his report using the observations and comments submitted by Governments and intergovernmental and non-governmental organizations which could not be included owing to the time when they were received;

4. Requests the Secretary-General to provide assistance to the Independent Expert and to transmit the report to all Member States and interested intergovernmental and non-governmental organizations;

5. Decides to consider the report of the Independent Expert at its fiftieth session, under the same agenda item, and to conclude its consideration of this matter upon receipt of that report."

3. As the draft resolution was of a procedural nature, his delegation trusted that it would be adopted by consensus.

4. Mr. CISSE (Secretariat) announced that the United Kingdom, the Russian Federation and the Philippines wished to become sponsors of the draft resolution.

5. Mr. GUBARTALLA (Sudan) said that his delegation like others had just received the amended text of the draft resolution. In the circumstances, it felt bound to enter a reservation since it had not had time to examine the text in detail.

6. Mr. HESSEL (France) said that the Commission should adopt the draft resolution as quickly as possible since it was actually a combination of the two draft resolutions on the right to own property. He regretted that no French translation of the amended text was available but certainly did not wish to stand in the way of the adoption of the draft resolution.

7. Draft resolution E/CN.4/1993/L.19, as amended, was adopted without a vote.

Draft resolution E/CN.4/1993/L.24 (agenda item 7)

8. Mr. GRILLO (Colombia) said that, as stated by the United States representative, following an agreement between the sponsors of draft resolutions E/CN.4/1993/L.19 and E/CN.4/1993/L.24, draft resolution E/CN.4/1993/L.24 had been withdrawn.

Draft decision 5 (Promoting the realization of the right to adequate housing) (E/CN.4/1993/2, Chap. I, Sect. B)

9. Mr. CISSE (Secretariat), referring to the financial implications of the draft decision, said that the estimated cost of the activities provided for under the decision was US$ 16,000 in 1993 and US$ 16,200 in 1994.

10. Draft decision 5 was adopted without a vote.

Draft decision 6 (Human rights dimensions of population transfer, including the implantation of settlers and settlements) (E/CN.4/1993/2, Chap. I, Sect. B)

11. Mr. CISSE (Secretariat), referring to the financial implications of the draft decision, said that the estimated cost of the activities provided for under the draft decision was US$ 29,300 in 1993.

12. Mr. BLACKWELL (United States of America) said that although the United States like other members of the Commission, was concerned about the subject-matter of the draft decision, his delegation would oppose the decision. It was of a highly political nature and its adoption would not be conducive to the peace process initiated in the Middle East. Moreover, the draft decision took no account of the new policy recently defined by the Israeli Government regarding the cessation of the implantation of settlements in the occupied territories.

13. At the request of the representative of the United States, draft decision 6 was put to the vote.

14. Draft decision 6 was adopted by 48 votes to 1.

Draft resolution E/CN.4/1993/L.26/Rev.1 (agenda item 8)

15. Mr. JAMTOMO (Indonesia), introducing the draft resolution on the right to development on behalf of the sponsors, said that its purpose was to enable the objectives set forth in the resolutions adopted by the General Assembly and the Commission in that connection to be achieved. In view of the renewed efforts being made to reactivate sustainable development and accelerated economic growth, the sponsors considered that more importance should be given to the treatment of economic, social and cultural rights through the speedy implementation of the principles set forth in the Declaration on the Right to Development. The sponsors also considered that the implementation of the Declaration on the Right to Development would promote the achievement of the objectives of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. In that context, the establishment of some mechanism to evaluate the implementation of the Declaration on the Right to Development would improve the work of the Commission.

16. Mr. CISSE (Secretariat) announced that Jamaica, Bahrain, Angola, Equatorial Guinea, Cameroon and Madagascar wished to become sponsors of the draft resolution.

17. Mrs. PAZ (Mexico) said that she had two comments to make concerning the drafting of the Spanish text. In operative paragraph 1, the end of the first line should read: "un derecho humano inalienable en" and, in subparagraph (a) of paragraph 10, the word "Individualizar" should be replaced by "Identificar".

18. Mr. CISSE (Secretariat) said that the implementation of operative paragraphs 10 and 11 of draft resolution E/CN.4/1993/L.26/Rev.1, which provided for the establishment, initially for a three-year period, of a thematic working group on the right to development, composed of 15 experts and entrusted with the task of submitting to the Commission an initial, comprehensive report on the implementation of the Declaration on the Right to Development, would have administrative and programme budget implications amounting to an estimated US$ 92,000 for 1993, $95,000 for 1994 and $92,000 for 1995.

19. At the request of the representative of the United States, a vote was taken by roll-call on draft resolution E/CN.4/1993/L.26/Rev.1.

20. Brazil, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Argentina, Australia, Bangladesh, Barbados, Brazil, Burundi, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, France, Gabon, Gambia, India, Indonesia, Iran (Islamic Republic of), Kenya, Lesotho, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mauritius, Mexico, Nigeria, Pakistan, Peru, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Uruguay, Venezuela.

Against: United States of America.

Abstaining: Austria, Bulgaria, Canada, Czech Republic, Finland, Germany, Japan, Netherlands, Poland, Portugal, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland.

21. Draft resolution E/CN.4/1993/L.26/Rev.1 was adopted by 36 votes to 1, with 13 abstentions.

22. Mr. KESSEL (Canada) said it was with regret that his delegation had abstained in the vote. It would have preferred to cast a favourable vote in respect of the item under consideration, as it had done at the Commission's preceding session and at the forty-seventh session of the General Assembly. During the run-up to the World Conference on Human Rights, it would be preferable to cooperate with a view to achieving tangible results and avoiding any differences.

23. Unfortunately, the draft resolution contained elements that were not conducive to a consensus. With regard specifically to the working group whose establishment was provided for under operative paragraphs 10 to 12, his delegation would point out that the mandate of a similar working group had been terminated a few years earlier. It therefore failed to see how the proposal constituted a major step forward. Since the question of the relationship between development, democracy and the universal enjoyment of human rights was on the agenda of the World Conference, it would have been preferable to wait before adopting new institutional provisions.

24. Ms. WENSLEY (Australia) said that her delegation had voted in favour of the resolution just adopted and would have liked to have been among its sponsors. Although it considered that the resolution was, on the whole, satisfactory, it had some reservations about the content of operative paragraph 10. It doubted that the 15-member working group which was envisaged could make an effective contribution to promoting the implementation of the Declaration on the Right to Development. The question certainly deserved more thorough examination, particularly in the context of the World Conference on Human Rights.

25. Mr. SCHERK (Austria) said that Austria had consistently recognized the indivisibility and interrelationship of civil, political, economic, social and cultural rights. It had therefore supported the concept of the right to development by voting in favour of the Declaration on the Right to Development at the forty-first session of the General Assembly, and in favour of all successive relevant resolutions. At the most recent session of the General Assembly, it had joined the sponsors of the resolution on the right to development. It had also resolutely supported the inclusion of the vital question of the relationship between development, democracy and the universal enjoyment of all human rights in the draft agenda for the World Conference on Human Rights.

26. Although his delegation continued to support the concept of the right to development, as defined in operative paragraph 1 of the draft resolution just adopted, it had abstained in the vote because of its reservations to

paragraphs 10, 11 and 12. Since the question of the relationship between human rights and development was a central topic of the World Conference, the creation of a working group pre-empted the result of the discussion at Vienna and reduced its significance. Furthermore, questions of development could be successfully tackled only in a partnership between developing and developed countries. It was therefore regrettable that the sponsors of the draft resolution had not sought a consensus on the question of the establishment of the proposed new mechanism. Lastly, there was every reason to fear in advance that the mechanism would be cumbersome, and the new working group with 15 members nominated by Governments would inevitably be highly politicized. It would have been preferable to continue to reflect on an appropriate mechanism and to await the recommendations of the World Conference.

27. His delegation nevertheless wished to pay a tribute to the Indonesian delegation which had endeavoured to arrive at an understanding and to meet some of the concerns of Austria and of other delegations. Austria was prepared to continue to collaborate with Indonesia and other countries on the important subject of the right to development.

28. Mr. HESSEL (France) said that his delegation had voted in favour of the draft resolution because it was convinced of the need to promote the right to development, which was a complex synthesis of individual rights and collective aspirations. Its very complexity raised problems to which the international community must find a concerted response. The action required in that area necessarily had to be multidimensional and had to combine economic, social and cultural rights and civil and political rights, the role of the individual and the place of the community, and national action and international cooperation. The rights to education, food, health and decent housing were components of a right to sustainable and equitable development which in turn was linked to the right to freedom of expression and to the enjoyment of full rights as a citizen, as well as to the right to take part in public affairs.

29. The common denominator in all those rights was the central role of the individual - the subject and actor, but not the object, of development. If individuals and communities did not play an active part, if the wishes of the people were not taken into consideration, a development policy was bound to fail. It was because General Assembly resolution 49/123 reflected that balanced approach that France had decided to sponsor it. It had unfortunately been unable to sponsor the resolution just adopted because of the reservations and questions raised by operative paragraphs 10 to 12 concerning the establishment of a thematic working group on the right to development. His delegation was not opposed in principle to that mechanism but it considered that such an important innovation should not be decided upon unless a very broad measure of support in the Commission could be guaranteed. Thus far, all the thematic working groups had been established on a consensual basis, which meant that they had been able to carry out their work without question. The trouble was that the effectiveness of the working group on the right to development might be affected by the vote just taken.

30. It would also have been more prudent, perhaps, not to establish such a mechanism and to determine its mandate only in the light of the discussions at the World Conference on Human Rights, which would be concerned in particular

with the relationship between democracy, human rights and development. Lastly, the mandate entrusted to the working group and, even more so its composition, also raised a question: a body of 15 experts seemed extremely cumbersome and it would have been preferable to follow the usual practice of having five independent experts.

31. His delegation had, however, voted in favour of the draft resolution, first, because, for France, the right to development was an essential link between the aspirations of all the components of the international community; secondly, to take account of the efforts made by the delegations of the non-aligned countries and in particular, by Indonesia; and, lastly, to signify the hope that the difficulties of 1993 would be only transitory and that it would very soon be possible to return to the path of consensus.

32. Mr. MORLAND (United Kingdom) said that the United Kingdom was deeply committed to the idea of the relationship between human rights and development and, through its aid programmes, played an active part in national and international efforts to promote economic and social development. It had, however, abstained in the vote on the adoption of the Declaration on the Right to Development in 1986 and its position on the matter had not changed.

33. In the United Kingdom's view, it was primarily for every State to promote sustainable development in the interests of its own people by promoting the enjoyment of all the individual rights guaranteed under the two International Covenants on Human Rights. That was the only way of making sure that the individual continued to be both the subject and the beneficiary of the development process. The United Kingdom trusted that any documents submitted on the matter in future would take that point of view more fully into account.

34. Mr. YAMAZAKI (Japan) said that his delegation had abstained in the vote as it had difficulty with many points in the draft resolution. First of all, and without entering into a philosophical debate, Japan had difficulty in accepting the notion that the right to development formed part of human rights. It also regretted the formulation of such hasty conclusions as, for example, the proposal to establish a working group, without a thorough examination of the Secretary-General's report on the implementation of the Declaration on the Right to Development.

35. Operative paragraphs 1 to 3 also caused difficulty. Although Japan was the largest world contributor of development aid and was most anxious to contribute to the economic and social development of the developing countries, it considered that the discussions on the right to development at best, might, produce no concrete and positive results and, at worst, might lead to a North-South confrontation that would be counterproductive, particularly so far as the cause of human rights was concerned, especially in the framework of the World Conference.

36. Mr. CHABEN (Uruguay) said that his country had voted in favour of the draft resolution as it was itself a developing country and as it endorsed the content of the draft resolution in principle. It considered, however, that the wording of the resolution, and particularly of operative paragraph 3, could be improved.

37. Mr. MALGUINOV (Russian Federation) said that his delegation supported the idea of the right to development and recognized the importance of that right for the enjoyment of human rights. It had, however, abstained in the vote as some of the provisions of the resolution were, in its view, premature. In particular, the establishment of a working group on the right to development prejudged the consideration of the question at the World Conference on Human Rights and any decision reached at that Conference.

38. Mr. PARK SOO GIL (Republic of Korea) said that, while his delegation had voted in favour of draft resolution E/CN.4/1993/L.26/Rev.1, it had reservations in that respect. The wording of operative paragraph 10 was, of course, an improvement on the original, but the wording of certain parts was still not right. In particular, a question arose as to the need for the immediate establishment of a working group on the right to development, when the World Conference on Human Rights seemed to be the most appropriate body to discuss that matter. Moreover, if the characterization of the right to development given in the resolution were to be reflected in the domestic legislation of countries, it would probably raise difficulties in the Republic of Korea.

39. Ms. HAJDUK-WYKRETOWICZ (Poland) said that her delegation, which had abstained in the vote, fully endorsed the Canadian representative's observations with regard to draft resolution E/CN.4/1993/L.26/Rev.1. None the less, development was an essential element in the realization of all human rights. It was therefore to be hoped that, at the World Conference on Human Rights, the international community would find the right balance between the two concepts, on the basis of the universality and complementarity of all rights.

40. Ms. MATTILA (Finland) said that her delegation had abstained in the vote although it endorsed the general lines of the draft resolution and the idea that there was a relationship between human rights and development. Operative paragraph 10, however, raised problems and it would, in her view, be ill-advised to create the proposed working group. She therefore hoped that the mandate, and above all the composition, of the working group would be the subject of further discussions in the period leading up to the World Conference on Human Rights.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1993/7 - E/CN.4/Sub.2/1992/55; E/CN.4/1993/36-40, 41 and Add.1, 42-49, 75, 76, 79, 82, 86, 95, 99, 102 and 105; E/CN.4/1993/NGO/6, 8, 12, 16, 23, 26-28, 31 and 38)

41. Mr. MASRI (Syrian Arab Republic) said that there had recently been a resurgence of acts of violence perpetrated by Israel in southern Lebanon, where the rights of the population continued to be violated. Lebanese villages were the targets for heavy shelling and air raids, and there were countless victims and losses. Israel had turned the territories it occupied in southern Lebanon into a veritable base for aggression. Indeed, the Ambassador of Lebanon had referred, before the Commission, to the human rights situation in southern Lebanon and had given details of the policy of aggression and human rights violations carried out there by Israel.

42. The international community, and in the first place the Commission, must put an end to that spiral of violence. The Commission had already very often expressed its concern at Israeli practices in southern Lebanon, which were regarded as flagrant violations not only of the principles of the Universal Declaration of Human Rights but also of the provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. The Commission had already very often requested Israel to comply with Security Council resolution 435 (1978), which called for Israel's immediate withdrawal from the territories it occupied in southern Lebanon. But Israel persisted in its policy; it flouted all the relevant international instruments and all the Security Council resolutions. The international community must therefore compel Israel to comply with those resolutions and to respect the fourth Geneva Convention and the other principles of humanitarian law. In resorting to mass deportations and executions, Israel was in violation of article 49 of the fourth Geneva Convention. The most recent example of that was the deportation of 415 Palestinians in late 1992. Although, by resolution 799 (1992), the Security Council had condemned that unlawful action, which was a violation of the commitments entered into by Israel under the Convention, and although it had requested Israel to repatriate those Palestinians, who were living in very harsh conditions, Israel refused to comply.

43. The peoples who were the victims of a policy of colonization should be able to count on the international community's support. The heroic Lebanese resistance movement had embarked on a legitimate struggle to restore Lebanon's complete sovereignty. Israel should be made to implement the relevant Security Council resolutions and, in particular, resolution 435 (1978), and to withdraw from the territories it occupied.

44. With regard to the situation in Cyprus, his delegation welcomed the dialogue initiated between the two communities. It trusted that that process would have positive results and that the independence of the Republic of Cyprus would be preserved.

45. Mr. JIN Yongjian (China) said that the allegations made by the representatives of the United States, the EEC countries and a few other Western countries were unfounded. They were also proof that those countries, which were about to submit a draft resolution on the human rights situation in China, were totally ignorant of the realities there.

46. China, a developing country with over 1 billion inhabitants, had, since 1949, rid itself of the semi-famine which had been endemic. With only 7 per cent of the world's arable land, China fed 22 per cent of the world's population. Its development had been such that when, in 1992, more than 100 million people - or the equivalent of the whole of the population of Japan - had been the victims of floods in eastern China it had, through its own efforts, resettled those people, provided them with food and work, and prevented epidemics. All of that attested to China's achievements and at the human rights level as well. China was currently carrying out a policy of reform and of opening up to the outside world, concentrating on the development of its economy but combining economic reforms and political reforms. In addition, it was endeavouring to build up its legal system and promote democracy. The Chinese people lived in stability, peace and social

order and had never so fully enjoyed their economic, civil and social rights. That was acknowledged by all objective observers. The Chinese people expected those developments to continue, and those who tried to interfere in Chinese affairs on the pretext of human rights were acting against its wishes.

47. China was committed to the principles of the Charter of the United Nations concerning human rights - objectivity, impartiality and non-selectivity - and would remain steadfastly loyal to them. It was opposed to the politicization of the Commission's work, which was the aim of the Western countries led by the United States and the European Community.

48. Some of those countries claimed that failure to sponsor a draft resolution on China implied a double standard. But everyone knew that certain Western countries had one set of standards for their own group and another for the developing countries. They had, for instance, adopted numerous resolutions on the human rights situation in developing countries but not a single one against a country in their own group. The United States representative had cited his country's legal system as an example but had said nothing about the cause of the Los Angeles events. On 1 March, the representative of the European Community had referred by name to some 30 countries, not one of which was in its group. It was hard to believe that none of the Western countries had any human rights problems. That was what a policy of double standards involved and that was how the Western countries tried to exert political pressure on China by means of human rights.

49. China, which was committed to the protection and promotion of human rights - an objective of the Charter of the United Nations - had signed and ratified a series of important human rights conventions. It had always duly submitted its reports on the implementation of those conventions and had always performed its treaty obligations. It had also always replied to the communications transmitted to it by the United Nations Centre for Human Rights, the working groups and all the special rapporteurs. That had not prevented the United States and some other Western countries from preparing a draft resolution unfavourable to China on the basis of some groundless "reports".

50. The confrontation between the two political and military blocs was a thing of the past. The people of the world wanted to live in a peaceful international environment so that they could concentrate on their economic and social development and effectively enjoy their fundamental rights and freedoms. Some countries had, however, taken advantage of that development to peddle their own political and economic models and to interfere in the internal affairs of other countries. That was why new conflicts and new "hot spots" had arisen, which was obviously contrary to the will of the people of the world.

51. China, like other developing countries, trusted that the World Conference on Human Rights to be held in Vienna would be a success and would help to promote international cooperation in the field of human rights. China had hoped that the Commission's current session would take place in a new climate marked by a constructive dialogue between equal partners on the basis of mutual respect. Some Western countries, however, had tried to provoke

confrontation again by unfairly accusing a large number of developing countries. That attitude could only have unfortunate consequences for international cooperation in the human rights field.

52. Lastly, no country or group of countries had the right to sit in judgement when it came to human rights and to impose its values and economic and social structures on others. His delegation was ready to cooperate sincerely with the delegations of all countries in protecting and promoting human rights and fundamental freedoms and thus to put an end to the abnormal phenomenon of the politicization of human rights.

53. Mr. VERGNE SABOIA (Brazil) said that of all the items on the Commission's agenda the most confusing was item 12, not only because its wording established many years before, referred to bygone problems, such as those of colonial and dependent countries and territories, but also because, in the operative part dealing with human rights violations, neutral mechanisms were intermingled with instances of a rather punitive nature directed against specific Governments. Moreover, there was an undue tendency to focus on violations and to forget that the Commission's aim was to help to redress abnormal situations by means of cooperation. It was therefore natural that the item should be misinterpreted by the public, who believed that consideration of the case of a country meant condemnation of the Government concerned, by the Governments of countries whose situation was examined and which felt accused, and by some Member States of the Commission which used human rights for political ends.

54. In that connection, the cases of El Salvador and Guatemala, which were the subject of a futile debate on whether their situations should be considered under item 21 or under item 12, were of some relevance. In fact, that kind of situation could be examined under either item. It was more important to note that the situation in El Salvador, where many contingents of ONUSAL were stationed, had improved considerably and that the situation in Guatemala, which benefited from the assistance of the Commission, showed encouraging signs of progress.

55. In the confusion to which item 12 could give rise, the impressive work of Mr. Bacre Waly Ndiaye, Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1993/46) should not be overlooked. The impartiality which was a feature of that report deserved special mention. The Special Rapporteur had recognized the efforts of the Brazilian Government which, as it acknowledged itself, had the utmost difficulty in combating violence and human rights violations within the country. There were many who disregarded those efforts, but the Special Rapporteur had taken note of them. It was balance and a cooperative approach on the part of the rapporteurs that gave credibility to the Commission's action.

56. Experience showed that most countries at first refused to cooperate with and to receive visits from the special rapporteurs, since they felt that it was an affront to their national sovereignty to do so. Examples abounded, however, of cases in which they often changed their opinion and acknolwedged the value of the procedure. That was true of Afghanistan for instance: while

still under Communist rule, it had refused a visit by Mr. Ermacora but, now that the situation had changed, it called the attention of the world to the drama of Afghanistan through the voice of Mr. Ermacora himself.

57. Iran was a similar case. Having refused to cooperate with Mr. Galindo Pohl for some years, the Iranian Government had then done so. Unfortunately, it had reverted to its earlier position, although the Special Representative's reports had been instrumental in refuting some of the allegations that had presented Iran in the most unfavourable light.

58. As for the impartiality of the special rapporteurs, Mr. Groth's report on Cuba (E/CN.4/1993/39) was a case in point. As he had been unable to visit the country, and therefore been able to draw only on sources of information outside the Government, he had confined his report to violations of freedom of expression and association and had declared that international sanctions against Cuba were counter-productive in terms of human rights.

59. The object of his statement had not been to point a finger at any country or to allay the grave concern the Commission rightly felt at gross violations of human rights. Like the rest of the international community, his delegation was concerned about the situation in Haiti, Cyprus and East Timor and, even more so, by the situation in the former Yugoslavia, as reported by Mr. Mazowiecki (E/CN.4/1993/50). In his statement, he had focused on the mechanisms rather than on the serious cases, since it was his conviction that, while denunciations were useful for the cause of human rights, cooperation could be even more so.

60. Mr. HELLER (Mexico) said that, in the course of its work, the Commission must bear in mind the far-reaching changes under way throughout the world and adjust its working methods accordingly. The Commission's annual sessions afforded an opportunity to gain an overall picture of developments with respect to human rights. It was clear, for instance, that the encouraging signs discerned at the start of the decade were gradually fading with the proliferation of ethnic conflicts and the instability that prevailed in various regions. The flood of developments by which the agenda was encumbered raised doubts about the Commission's capacity to react. The convening of extraordinary sessions to deal with particularly serious situations was a worthy initiative. But the Commission must not forfeit its legitimacy and credibility by reacting to emergencies, in disregard of the principles by which its action was governed.

61. His delegation had been concerned to note the attempts made to erode some of the fundamental principles of international law, such as non-interference in the internal affairs of States and respect for the right of peoples to self-determination. National sovereignty was a concept that was neither abstract nor obsolete: based as it was on the legal equality of States, it guaranteed that nations treated each other with mutual respect regardless of their importance in international relations. Admittedly, the principle of non-intervention could not be invoked to justify the violation of human rights but, as an intergovernmental body, the Commission should never forget that its task was to encourage international cooperation and understanding, not to

exercise supranational or judicial functions. It should be able to act in particular by virtue of its prestige, which should therefore be strengthened within and outside the United Nations.

62. It was now necessary to move away from the sterile confrontation between East and West towards genuine international cooperation in the interests of promoting and protecting human rights everywhere. The progress achieved through détente and the encouraging events which had taken place in central and eastern Europe, after a considerable number of fundamental freedoms had been recognized there, were threatened by a series of fratricidal struggles which had turned the principle of the self-determination of peoples into a weapon of dubious legality that was frequently used in territorial, ethnic and religious disputes.

63. The promotion of human rights certainly did not mean the imposition of societal models that were alien to the socio-economic, historical, political, cultural and social personality of each people. The efforts made by the international community to promote and protect human rights in the various countries must adapt to the changes that had occurred in recent years. The community of nations should consolidate the progress made, avoid self-satisfaction and give equal attention to all problems.

64. The difficult human rights situation in a large number of countries whose Governments had sometimes enjoyed impunity, owing to outside support, had long been attributed to the confrontation between East and West. The Commission could not be a forum where a few, and only a few, countries applied formulas conceived by themselves to put an end to human rights violations which, as they saw it, occurred mainly in the developing countries. It was necessary to move beyond the North-South perspective and to situate economic, social, cultural, civil and political rights on the same plane. In his delegation's view, the promotion and protection of human rights were an obligation for all States, which should make progress towards their realization in the light of the particular circumstances.

65. Each country should therefore base its efforts on the realities of its own situation and should cross national borders only in the context of multilateral action that complied fully with the law. To promote the development of other initiatives would weaken the efforts of the international community in that regard, and imperil principles that were fundamental to coexistence between nations.

66. Determined action against extreme poverty, economic imbalances and social inequality continued to be indispensable for the consolidation of the progress of democracy in many countries. Countries where there were no massive and systematic human rights violations should, however, be warned not to lower their guard so far as respect for the rule of law on their territory was concerned.

67. The developing countries could not and should not be the only ones to come under close, and sometimes offensive, scrutiny while others' shortcomings escaped unnoticed.

68. By respecting the basic rules of impartiality and objectivity, the Commission would help to establish a climate that was more conducive to discussion. It was not the place for settling disputes of an eminently bilateral nature.

69. It was essential never to lose sight of national realities, not to try to impose single, and allegedly infallible, models, to support national efforts in a spirit of collaboration, and never to forget that the deep-rooted and permanent changes affecting a society had to be brought about by the members of that society themselves.

70. The situations examined by the Commission on Human Rights demonstrated the validity of that principle. The case of the conflict in El Salvador was an example of extremely constructive action on the part of the Commission and of the United Nations as a whole, and that action was characterized by the fact that the proposed settlement had taken into account the origins of the problem. The negotiations between the parties to that armed conflict, which had culminated in the Chapultepec agreements, had proved essential in putting an end to the grave and massive violations of human rights in the country. The Salvadorian Government and people were to be commended for the progress achieved and encouraged in their efforts to promote human rights with the support of the international community.

71. His delegation also welcomed the resumption of negotiations between the parties to the conflict in Guatemala and the efforts made by President Serrano to establish peace and thus ensure respect for human rights. It trusted that the Commission would contribute to that development through the commitments it undertook, since human rights would be an essential element in the negotiations. Once again, it should be understood that systematic human rights violations were generally the consequence or reflection, and not the cause, of other problems. It was always necessary, therefore, to determine the origin of the conflicts and to ensure that the main international problems of the modern world were not always reduced to a matter of human rights. The situation in the territory of the former Yugoslavia showed the need for rapid, effective and urgent measures to mitigate the more devastating effects of that armed confrontation; but it was necessary, too, if it was hoped to encourage the establishment of new relations between the communities that coexisted in that region, to find a substantive solution to the problems caused by the break-up of the Yugoslav State and not just to condemn the violations committed by each of the parties. In the case of other regions of the world, too, it was necessary to adopt a constructive approach and not simply to churn out resolutions condemning a particular country. His delegation continued to follow the development of the situation in Haiti with concern and trusted that the joint efforts of the United Nations and the OAS would lead to the speedy restoration of the constitutional regime and to the cessation of human rights violations in that country.

72. In conclusion, his delegation reaffirmed Mexico's commitment to the cause of human rights and its determination to help to make the World Conference, to be held in Vienna in June 1993, a special event which would not be purely formal in nature but would lay the foundations for closer and more disinterested international cooperation in the human rights field as well as

providing an opportunity to review the whole range of existing instruments and mechanisms in that field with a view to making their implementation truly universal.

73. Mr. Garretón (Chile) took the Chair.

74. The CHAIRMAN invited the representatives of those countries which had so requested to speak in exercise of their right of reply.

75. Mr. SOKHONA (Mauritania) said he regretted that the representative of the International Association for the Defence of Religious Liberty still failed to comprehend the philosophical, moral and legal bases of Mauritanian law with respect to religious freedom, and continued to accuse Mauritania of religious intolerance. A country could be reproached for anything except for adopting the rules of law prescribed by the religion of its people which, in the event, was Islam. Intolerance would consist, rather, of seeking to impose on a country and a people convictions they did not hold. His delegation would point out to the Association that Islam was a religion based on tolerance and was certainly not to be confused with a reprehensible extremism that was due to circumstances and the reasons for which were well known. Religious intolerance was not peculiar to Islam and there was therefore no reason for the Association to concern itself exclusively with that religion.

76. Mr. GARCIA BIRES (Angola) said that he deplored the lack of objectivity and impartiality displayed by the representative of the International Commission of Jurists. That representative was obviously badly informed about the current situation in Angola and that was why he had accused the Angolan police forces of being responsible for the execution of UNITA militants during the incidents which had occurred in October/November 1992 following the publication of the results of the general elections held in Angola under United Nations auspices. Those incidents should in fact be attributed to UNITA itself, which had violated all the agreements concluded in the context of the peace process following its election defeat. The police had merely assured the physical and moral protection of the public and the maintenance of law and order. Admittedly, the Government had not been entirely successful in limiting the spread of weapons among the civilian population, but during the incidents in question those weapons had been used in self-defence against UNITA.

77. His delegation also wished to make it clear that the allegations made by the World Social Prospects Association, which had accused the Angolan Government of persecuting Zairian nationals residing in Angola because of their support for UNITA, were totally unfounded, and that their sole purpose was to deflect the attention of world public opinion from the true facts. Although the Zairian Government's support for UNITA had been recognized and publicly denounced throughout the 16-year-long war that movement had waged against the Angolan people and State, the Angolan Government had never taken reprisals against the thousands of Zairian nationals who lived and worked in Angola or against the thousands of Zairian refugees who enjoyed the protection of the Angolan authorities.

78. Mr. AL-SALLAL (Observer for Kuwait) said that, contrary to what the observer for Iraq had stated at the previous meeting, Kuwait had no need to invent false reasons, such as Kuwaiti prisoners of war, for maintaining the international economic embargo against Iraq. It was Iraq itself which provided the reasons by refusing to implement Security Council resolutions 688 (1991), 706 (1991) and 712 (1991).

79. So far as the prisoners were concerned, Iraq could not, of course, deny their presence on Iraqi territory. Files containing all the necessary information on those prisoners had been submitted to the Red Cross and to the Special Rapporteur responsible for examining the human rights situation in Iraq. Furthermore, if many lists of prisoners had been established by the Kuwaiti Government, it was simply because they were revised as and when prisoners were released. The Kuwaiti Government would, moreover, continue to establish such lists so long as prisoners remained in Iraq. The Iraqi Government would be better advised to cooperate with the International Committee of the Red Cross by granting it access to all places of detention and by providing it with information on the fate of the prisoners in question.

80. Mrs. SILVERA NUNEZ (Cuba) said that the Norwegian representative obviously knew nothing about the situation in Cuba. None the less he did not hesitate to spread false information which was provided to him by small ill-intentioned groups with which he had close ties. If Norway was as objective as it claimed to be, why did it maintain links with the Zionist regime in Israel, why did it not support the just and legitimate struggle of the Palestinian people to achieve self-determination, and why did it not call upon Israel to put an end to its policy of oppressing that unhappy people? Also, how could the Norwegian Government justify its relations with South Africa's racist regime?

81. Norway had been the first Nordic country to lift sanctions against South Africa officially, and it had in any event always collaborated with the apartheid regime, particularly in the nuclear field, notwithstanding the censure of the international community. The Norwegian delegation would have been entitled to concern itself with the situation in Cuba if it had expressed opposition to the policy of apartheid or support for the restoration of the rights of the Palestinian people during the discussion on the question of racism and racial discrimination and on the situation in the occupied Arab territories. The Norwegian representative would perhaps be better advised to concern himself with the human rights situation in his own country, where abuses and excesses were also committed, in both the judicial and the administrative fields, particularly against migrant workers. A public debate on Norway's human rights record would perhaps enable the truth about that country to become known.

82. Mr. ABUGIDERI (Sudan) said that he was saddened by the false allegations made by the representative of Pax Romana, Bishop Macram Max, regarding the Sudan and the visit of Pope John Paul II who, in his own words, had brought a sense of hope to many Sudanese. The 1962 Christian Churches Missionary Societies Act, to which he had referred, was under review and the decision to amend it so as to remove any obstacle to its application in fact followed from the Pope's visit to the Sudan. As for the allegations concerning the situation from the human rights standpoint, they were totally unfounded and

designed solely to defame the Sudan. Could Bishop Max state, in all honesty, that 300,000 Sudanese had been taken hostage at Juba, that Juba was subjected to daily bombing, and that more than 20,000 children had been sold as slaves with the Government's connivance? Who had bought them and at what price? Could he also really claim that the Sudanese Government, which had made every effort to send hundreds of tons of food aid to areas in the south, including those held by the rebels, was using the food as a weapon against the civilian population? If that were so, why had millions of Sudanese left the south to take refuge in the north when they could have sought refuge in another country? How could he say that Christians were persecuted in the Sudan when there were 570 churches in the country and 49 Catholic churches had been built in Khartoum during the past 10 years alone? The representative of Pax Romana had obviously forgotten that, as the Bible said, it was truth that set men free.

83. Mr. THUER (Observer for Croatia) said that he categorically rejected the accusations levelled by the representative of the World Serbian Community against Croatia which, it claimed, was pursuing a policy of oppression against the Serbian population living there. The majority of Serbs still living in the territory of the Republic of Croatia enjoyed the same rights and freedoms as all the other citizens of the Republic in accordance with the Constitution and law of Croatia. His delegation reiterated its invitation to all international institutions dealing with human rights, as well as human rights experts, to visit Croatia and judge for themselves what the human rights situation there was. His delegation regretted that the Serbs were pursuing their policy of ethnic cleansing unremittingly in both Croatia and Bosnia and Herzegovina. Croats were continuously being expelled from areas under United Nations protection before the very eyes of members of UNPROFOR so much so that there were now only 200 Croats waiting to be transferred in the Knin municipality where they had lived for centuries.

84. His delegation also felt compelled to state again that the republic of Krajina, which according to the representative of the World Serbian Community was a safe haven for Serbs "expelled" from Croatia, did not exist and had never been recognized by any State or by the United Nations, that its leaders had usurped power and that the territory in question was an integral part of the Republic of Croatia, a sovereign and internationally recognized State. Recent events made it clear that the self-proclaimed Serbian leaders wanted to prevent the normalization of relations between the Republic of Croatia and Serbs living in the areas protected by the United Nations. It was hypocritical, to say the least, on the part of the Serbian representative, to condemn the policy of neighbouring States of the so-called Federal Republic of Yugoslavia towards the Serbian population when 20,000 Muslims in the town of Cerska who had been waiting for the only help possible, the help that came "from the sky", had had to flee because of the Serbian attacks on that town. Clearly, so long as the supporters of "Greater Serbia" were allowed to continue to spread lies in international forums and to state hypocritically that they were seeking peace while pursuing their heinous policy of ethnic cleansing and genocide, which was rightly condemned by the whole international community, all efforts to achieve a durable and peaceful solution in the region would be bound to fail.

85. Mr. AL DOURI (Observer for Iraq) said he would draw the attention of the observer for Kuwait to the fact that all Kuwaiti prisoners had been released and had returned home except for those who had preferred to stay in Iraq or whom Kuwait had refused to accept because it regarded them as stateless. The Iraqi Government had always responded favourably to requests by the Red Cross for information concerning prisoners and had also cooperated with the Arab League in that connection. Had Kuwait genuinely been a sovereign State, its representative would not have raised the question of the Security Council resolutions concerning the economic embargo against Iraq. It was common knowledge that, as soon as there was talk of lifting the embargo, the Kuwaiti sheikhs hurried off with suitcases full of dollars to convince other countries to maintain it.

The meeting rose at 1 p.m.